

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

FRANCISCAN ALLIANCE, INC.;
SPECIALITY PHYSICIANS OF
ILLINOIS, LLC;;
CHRISTIAN MEDICAL & DENTAL
ASSOCIATIONS;

- and -

STATE OF TEXAS;
STATE OF WISCONSIN;
STATE OF NEBRASKA;
COMMONWEALTH OF KENTUCKY, by
and through Governor Matthew G. Bevin;
STATE OF KANSAS,
STATE OF LOUISIANA;
STATE OF ARIZONA; and
STATE OF MISSISSIPPI, by and through
Governor Phil Bryant,

Plaintiffs,

v.

ALEX M. AZAR II, Secretary of the United
States Department of Health and Human
Services; and UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Defendants.

Civ. Action No. 7:16-cv-00108-O

APPENDIX TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Pursuant to Local Rule 7.1(i), Proposed Intervenors file this Appendix to their Motion for Renewed Motion to Intervene, filed contemporaneously herewith.

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Respectfully submitted this 1st day of February, 2019.

/s/ Kali Cohn

Kali Cohn

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**Application to withdraw pending.

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DECLARATION OF CHERYL NEWCOMB

1. I am the Deputy Director of the ACLU of Texas Inc. ("ACLU of Texas"), which is moving for intervention in the above-captioned action. Before becoming Deputy Director in 2015, I was the Director of Development for five years. In performing my duties as Development Director and then Deputy Director, I have interacted with ACLU of Texas

members often, and I regularly work with the staff members responsible for carrying out the mission of the organization. I have personal knowledge of the matters stated in this declaration.

2. The ACLU of Texas is a nonpartisan, nonprofit organization dedicated to defending the principles embodied in our Constitution and our nation's civil rights laws. The ACLU of Texas has approximately 38,000 members throughout the state, including areas of the state with few medical providers.

3. If Plaintiffs succeed in permanently striking down the U.S. Department of Health and Human Service's final rule, "Nondiscrimination in Health Programs and Activities," the ACLU of Texas's members will be stripped of critical protections from discrimination in healthcare.

4. The ACLU of Texas has multiple members who are transgender and seeking transition-related care for gender dysphoria. For example, one member who is insured through Texas Medicaid's Star Plus plan requires medically necessary surgery related to his transition, but that surgery is not covered under his Medicaid plan.

5. The ACLU of Texas has multiple members who anticipate requiring reproductive care within the next year. For example, one member has informed me that she has a history of high-risk pregnancies requiring emergency miscarriage management, including abortion care. This member terminated a past pregnancy after being informed by her doctor that, because of serious hemorrhaging, carrying the pregnancy to term would put her own life at risk. This past year, she had a pregnancy loss, as well as a tubal pregnancy that required termination. She remains fertile and could be at serious risk if a public or religiously affiliated hospital denied her emergency healthcare.

6. The ACLU of Texas advocates on behalf of transgender people, people seeking reproductive healthcare, and religious freedom. Through our litigation, lobbying, and advocacy efforts, we have fought to prevent discrimination in healthcare and to eliminate religious restrictions on access to care. The ACLU of Texas plans to continue to fight discrimination against transgender people and women seeking access to reproductive care in Texas, and to oppose the government establishment of religion.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on this 1st day of February, 2019.


Cheryl Newcomb

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DECLARATION OF ALLISON ANDREWS

1. I am the President of the River City Gender Alliance (“RCGA”), which is moving for intervention in the above-captioned action. I have personal knowledge of the matters stated in this declaration based on my relationships with RCGA’s members.

2. Founded in 1986, RCGA is an Omaha-based nonprofit organization that provides peer support, friendship, and understanding for transgender and gender non-conforming people. We currently have more than 150 members, spanning all age groups over the age of 18. We have members of many different faiths and members of no faith. Although we are based in Nebraska, we have members in several states, including Kansas, Missouri, and Iowa.

3. RCGA has several members residing in Nebraska and surrounding states who have a medical need for treatment related to gender transition and who anticipate needing treatment over the next year. At least one member requires medically necessary surgery related to their transition, but is insured through the Nebraska Medicaid Program, which does not provide insurance coverage for surgery related to gender transition.

4. RCGA provides support for transgender and gender non-conforming people. We hold monthly membership meetings, provide information on issues affecting the transgender community, and referrals to support groups, healthcare providers, emergency hotlines, and other resources. We also advocate for social acceptance of transgender and gender non-conforming people through community outreach and social events. RCGA plans to continue to provide support and advocacy for transgender people and gender non-conforming people in Nebraska, Iowa, Missouri, and Kansas.

5. If Plaintiffs succeed in striking down the U.S. Department of Health and Human Service's final rule, "Nondiscrimination in Health Programs and Activities," RCGA reasonably fears that its members will be discriminated against in healthcare based on their gender identity. Its members have already been stripped of critical protections.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on February 1, 2019.

By: 
Allison Andrews